

THE STATE OF TEXAS §

COUNTY OF HARRIS §

The Commissioners Court of Harris County, Texas, convened in regular session of the Court in the Harris County Commissioners Courtroom, 9th Floor, Harris County Administration Building, 1001 Preston, Houston, Texas, at 1:45 p.m. on August 24, 1993, with the following members present, to wit:

Jon Lindsay	County Judge
El Franco Lee	Commissioner, Precinct No. 1
James Fonteno	Commissioner, Precinct No. 2
Steve Radack	Commissioner, Precinct No. 3
Jerry Eversole	Commissioner, Precinct No. 4
Molly A. Pryor	County Clerk

and the following member(s) absent, to-wit: None, constituting a quorum, when among other business, the following was transacted:

ORDER ADOPTING PROCEDURES FOR THE ABATEMENT OF NEIGHBORHOOD NUISANCES AND THE ABATEMENT AND REMOVAL OF JUNKED VEHICLES AS PUBLIC NUISANCES FROM PRIVATE PROPERTY

Commissioner Radack introduced an Order and made a Motion that the same be adopted. Commissioner Eversole seconded the Motion for adoption of the Order.

The Motion carrying with it the adoption of the Order prevailed by the following vote:

AYES: Commissioners Lee, Fonteno, Radack and Eversole and Judge Lindsay

NOES: None

The County Judge thereupon announced that the Order had been duly and lawfully adopted. The Order adopted reads as follows:

PRESENTED TO
Commissioners Court

Date AUG 24 1993

Recorded Vol. _____ Page _____

**ORDER ADOPTING PROCEDURES FOR THE ABATEMENT OF NEIGHBORHOOD NUISANCES
AND THE ABATEMENT AND REMOVAL OF JUNKED VEHICLES AS PUBLIC NUISANCES
FROM PRIVATE PROPERTY**

Subchapter A. Abatement of Neighborhood Nuisances

Section 1. Scope and Purpose

- 1.1 These procedures are adopted by the Commissioners Court of Harris County pursuant to the Neighborhood Nuisance Abatement Act, codified as Chapter 343 of the Texas Health and Safety Code, as amended, and shall apply to the unincorporated areas of Harris County, Texas.
- 1.2 The procedures provided for herein are not intended, nor shall they be construed, to limit in any way other remedies, causes of action, or rights provided for by law.
- 1.3 It is the purpose of these procedures to protect and enhance the desirability and the aesthetic character of residential and commercial neighborhoods in the unincorporated areas of Harris County and to control and abate certain conditions which lead to neighborhood blight and are detrimental to the overall health, welfare, and safety of the citizens of Harris County.

Section 2. Definitions

As used in Subchapter A, the words and terms defined in this section shall have the meanings ascribed, unless the context clearly indicates another meaning.

Abate means to eliminate a nuisance by removal, repair, rehabilitation, or demolition.

Administrator means the Director of the Harris County Health Department of Harris County, Texas, or a county employee acting under his/her supervision and control.

Building means a structure built for the support, shelter, or enclosure of a person, animal, chattel, machine, equipment, or other movable property.

Commissioners Court means the Commissioners Court of Harris County.

County means Harris County.

Garbage means decayable waste from a public or private establishments or restaurant. The term includes vegetable, animal, and fish offal and animal and fish carcasses, but does not include sewage, body waste, or industrial by-product.

Hearing Examiner means any board, commission, or official designated by the Commissioners Court to conduct a public hearing requested in accordance with Subchapter A of this Order.

Neighborhood means

- a. a platted subdivision; or
- b. property contiguous to and within 300 feet of a platted subdivision.

Order means the "Order Adopting Procedures for the Abatement of Neighborhood Nuisances and the Abatement and Removal of a Junked Vehicle as a Public Nuisance from Private and Public Property" which was adopted on August 24, 1993.

Person has the meaning assigned to that term by subdivision (2) of Section 311.005 of the Texas Government Code, as amended.

Platted Subdivision means a subdivision that has its approved or unapproved plat recorded with the county clerk of the county in which the subdivision is located.

Premises means all privately owned property, including vacant land or a building designed or used for residential, commercial, business, industrial, or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structure appurtenant to the property.

Public Nuisance is

- a. Keeping, storing, or accumulating refuse on premises in a neighborhood unless such refuse is entirely contained in a closed receptacle;
- b. Keeping, storing, or accumulating rubbish or any unused, discarded, or abandoned object, including newspapers, vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood for ten (10) days or more, unless the rubbish or object is completely enclosed within a building or is not visible from a public street;
- c. Maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests;
- d. Allowing weeds to grow on premises in neighborhood if such weeds are located within 300 feet of another residence or commercial establishment.
- e. Maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, fire hazard, disaster, damage, or abandonment.
- f. Maintaining on abandoned and unoccupied property in a neighborhood a swimming pool that is not protected with:
 1. A fence that is at least four (4) feet high and that has a latched gate that cannot be opened by a child; or
 2. a cover over the entire swimming pool that cannot be removed by a child.
- g. This definition does not apply to a site or facility that is permitted and regulated by a state agency.

Public Street means the entire width between property lines of a road, street, way, thoroughfare, or bridge if any part of the road, street, way, thoroughfare, or bridge is opened to the public for vehicular or pedestrian traffic.

Receptacle means a container that is composed of durable material and designed to prevent the discharge of its contents and to make its contents inaccessible to animals, vermins, or other pests.

Refuse means garbage, rubbish, paper, and other decayable and nondecayable waste, including vegetable matter and animal and fish carcasses.

Rubbish means nondecayable waste from a public or private establishment or residence.

Weeds means all rank and uncultivated vegetable growth or matter that:

- a. has grown to more than thirty-six (36) inches in height; or
- b. may create an unsanitary condition or may become a harborage for rodents, vermin, or other disease carrying pests, regardless of the height of the weeds.

Section 3. Public Nuisances Prohibited

A person may not cause, permit, or allow a public nuisance, as that term is defined in Subchapter A of this Order, on any premises.

Section 4. Investigation

- 4.1 The Commissioners Court of Harris County hereby appoints the Director of the Harris County Health Department, a regularly salaried full-time County employee, to administer this program and the abatement procedures prescribed in Subchapter A of this Order.
- 4.2 A complaint to abate a public nuisance under these procedures may be initiated by any person by written complaint filed with the Administrator.
- 4.3 The Administrator shall make a record of all complaints received.
- 4.4 The Administrator shall review the complaint and make a determination as to whether a public nuisance exists. In order to administer these procedures, the Administrator may enter any premises in the unincorporated areas of the County at a reasonable time to inspect, investigate, or abate a nuisance, or to enforce Chapter 343 of the Texas Health and Safety Code, as amended. Before entering the premises, the Administrator must exhibit proper identification to the occupant, manager, or other appropriate person.
- 4.5 If the Administrator determines that a public nuisance does not exist, he will then close the matter and take no further action thereon.
- 4.6 If the Administrator determines that a public nuisance exists, he shall serve Notice to Abate the Public Nuisance on the owner of the premises on which the public nuisance exists. This Notice to Abate the Public Nuisance shall comply with, and be served as provided in, Section 6 of Subchapter A of this Order.
- 4.7 After the expiration of 30 days from the date on which the County's Notice to Abate the Public Nuisance is served, the Administrator shall inspect the premises described in the complaint.
- 4.8 If the Administrator determines that the public nuisance has been abated, he shall make a record of his/her findings and take no further action thereon.

- 4.9 If the Administrator determines that the public nuisance has not been abated and that a hearing has been requested, the Administrator shall follow the procedures set out in Section 7 of Subchapter A of this Order.
- 4.10 If the Administrator determines that the nuisance has not been abated, but there has been no request for a hearing, the Administrator shall follow the procedures set out in Section 5 of Subchapter A of this Order.

Section 5. Procedures When No Hearing is Requested

- 5.1 If the Administrator determines that the public nuisance has not been abated and a hearing has not been requested, then the Administrator shall request a title opinion from the County Attorney regarding ownership of the premises on which the public nuisance exists.
- 5.2 If the title opinion reflects an owner other than the person shown on the Notice to Abate the Public Nuisance, the Administrator shall serve a Notice to Abate the Public Nuisance on the person named as owner in the title opinion as set out in Section 6 of Subchapter A of this Order, as if no prior action had been taken on the complaint subsequent to the service of the first Notice to Abate the Public Nuisance.
- 5.3 If the title opinion shows the owner to be the person served with the Notice to Abate the Public Nuisance, then:
- a. The Administrator shall estimate the cost to abate the public nuisance;
 - b. The Administrator shall forward the estimate of the cost to Commissioners Court; and
 - c. The Commissioners Court shall determine whether or not to order the abatement of the public nuisance and assess the costs of abating the public nuisance, the cost of legal notification by publication, if said procedure was utilized, plus an administrative fee of \$100, on the owner of the premises on which the public nuisance exists, and/or the assessment of said costs on the premises on which the public nuisance exists. The County shall be entitled to interest beginning on the 31st day after the date of the assessment against the property at the rate of 10% per year.

Section 6. Notice Requirements

- 6.1 Each Notice to Abate the Public Nuisance must contain the following information:
- a. The specific condition that constitutes a public nuisance;
 - b. The street address or other general description of the property on which the public nuisance exists;
 - c. That the person receiving the notice must abate the public nuisance before the 31st day after the date on which the notice is served;
 - d. That failure to abate the public nuisance may result in abatement by the County, assessment of costs, and the attachment of a lien to the property on which the public nuisance exists;
 - e. That Section 343.012 of the Texas Health and Safety Code, as amended, provides that a person commits a misdemeanor (punishable by a fine of not less than \$50 or more than \$200 for the first offense) if the public nuisance remains unabated after the 30th day after the date on which the person receives notice from a county official, agent, or employee to abate the nuisance;

- f. Each day a violation occurs is a separate offense. If it is shown at trial of the defendant that the defendant has been previously convicted of an offense under this section, the defendant may be punished with a fine of not less than \$200 or more than \$1,000, confinement in jail for not more than six months, or both. The court shall order abatement of the nuisance if the defendant is convicted of an offense under Section 343.012 of the Texas Health and Safety Code, as amended;
 - g. That the owner, lessee, occupant, agent, or person in charge of the premises is entitled to submit, before the 31st day after the date on which the notice is served, a written request for a hearing which should contain the name and address of the person to be notified of the date, time and place of the hearing;
 - h. That said Request for Hearing may be given to the Administrator by hand delivery to his office which is currently located at 2501 Dunstan, Houston, Texas, or by certified mail, return receipt requested, addressed to the Director of the Harris County Health Department, P. O. Box 25249, Houston, Texas 77265; and
 - i. That the owner, lessee, occupant, agent, or person in charge of the premises is entitled to appear at the scheduled hearing and is entitled to present evidence, examine witnesses, and argue on the owner's behalf.
- 6.2 The Notice to Abate the Public Nuisance shall be served on the owner in the following manner:
- a. in person or by registered or certified mail, return receipt requested; or
 - b. if the owner cannot be located or identified, by posting a copy on the premises on which the public nuisance exists and by publishing the notice in a newspaper with general circulation in the county, two times within 10 consecutive days.

Section 7. Public Hearing before Hearing Examiner

- 7.1 A person receiving a Notice to Abate the Public Nuisance under Subchapter A of this Order is entitled to a public hearing before a Hearing Examiner. Such a request may be perfected by submission of a written request to the Administrator within 31 days of receipt of the Notice to Abate the Public Nuisance.
- 7.2 If a hearing has been requested, the Administrator shall set a hearing date and send a Notice of Hearing to the person and address stated in the Request for Hearing or by serving the owner in the same manner as used for serving the Notice to Abate the Public Nuisance in Section 6 of Subchapter A of this Order. The Notice of Hearing shall state the date, time, and place of the hearing and shall be provided at least ten (10) days prior to the date of the hearing. The ten-day notice requirement may be waived by the person filing the request for hearing if such waiver is in writing and signed by the person filing the Request for Hearing.
- 7.3 The owner and/or his representative present at the hearing shall be entitled to present testimony and other evidence, examine witnesses, and argue on the owner's behalf.
- 7.4 Any interested person, including the Administrator and Investigator, may appear and present testimony and other evidence.
- 7.5 All persons testifying at the hearing shall be under oath.
- 7.6 The Hearing Examiner shall be allowed to question any person testifying. The Hearing Examiner shall assess the testimony fairly and impartial and in accordance with the law.
- 7.7 The Hearing Examiner shall make a written determination as to whether a public nuisance exists and sign such written determination. A copy shall be sent to the Administrator. Upon

the receipt of the copy of the written determination, the Administrator or his representative shall hand deliver or send by certified mail, return receipt requested, a copy of the written determination of the Hearing Examiner to the person designated in the Request for Hearing. If mailed, it shall be mailed to the address designated in said request.

Section 8. Post-Hearing Procedures When No Appeal Filed

- 8.1 If the Hearing Examiner determines that a nuisance exists, but no appeal is filed pursuant to Section 9 of Subchapter A of this Order, upon the expiration of 30 days from receipt of the determination by the person designated in the Request of Hearing, the Administrator will determine whether or not the public nuisance has been abated.
- 8.2 If the public nuisance has been abated, then the Administrator shall make a record thereof and take no further action thereon.
- 8.3 If the public nuisance has not been abated, the Administrator will estimate the cost to abate the public nuisance and forward the estimate to the Commissioners Court.
- 8.4 The Commissioners Court shall determine whether or not
 - a. to order the abatement of the public nuisance;
 - b. to assess the cost of abating the public nuisance, the cost of legal notification by publication, if said procedure was utilized, an administrative fee of \$100.00, plus interest beginning on the 31st day after the date of the assessment on the owner of the premises on which the public nuisance exists; and/or
 - c. to assess the costs of abating the public nuisance, the cost of legal notification by publication, if said procedure was utilized, an administrative fee of \$100.00, plus interest beginning on the 31st day after the date of the assessment against the premises on which the public nuisance exists.

Section 9. Appeal to Commissioners Court

- 9.1 An appeal from the written determination of the Hearing Examiner to Commissioners Court may be perfected by giving written Notice of Appeal to the Administrator within 31 days of receipt of a copy of the Hearing Examiner's determination by the person to be notified as shown in the Request for Hearing.
- 9.2 The Notice of Appeal must be in writing and must be signed by the person giving such Notice or his duly authorized representative. The Notice of Appeal must state the name and address of the person giving such Notice or his duly authorized representative.
- 9.3 Notice of Appeal may be given to the Administrator by hand delivery to his office which is currently located at 2501 Dunstan, Houston, Texas or by certified mail, return receipt requested, addressed to the Director of the Harris County Health Department, P.O. Box 25249, Houston, Texas 77265.
- 9.4 Upon receipt of a Notice of Appeal, the Administrator shall notify the Commissioners Court and the Commissioners Court shall set the date, time, and place for the appeal hearing.
- 9.5 The Administrator shall notify the person, or his duly authorized representative, at the address designated in the Notice of Appeal by certified mail, return receipt requested, or the notice may be delivered in person, of the date, time, and place of the appeal hearing set by Commissioners Court. This notice shall be provided at least ten (10) days prior to the date of

the appeal hearing. The ten (10) day notice requirement herein may be waived by the person filing such appeal if such waiver is in writing and signed by the person filing the appeal.

- 9.6 The Commissioners Court will conduct the appeal hearing and shall hear the testimony of any witness who shall be under oath. Each commissioner and the county judge may question any witness testifying.
- 9.7 The Commissioners Court Order determining the final disposition shall be entered in the Minutes of Commissioners Court. A copy of such Commissioners Court Order shall be sent by the Administrator by certified mail, return receipt requested, to the person or his duly authorized representative at the address designated in the Notice of Appeal.
- 9.8 If Commissioners Court determines that a public nuisance does not exist, then the Administrator shall close the matter and take no further action thereon.
- 9.9 If Commissioners Court determines that a public nuisance does exist, then the Administrator shall mail by certified mail, return receipt requested, to the person or his duly authorized representative at the address designated in the Notice of Appeal, a copy of such Commissioners Court Order making such determination.

Section 10. Post-Appellate Procedures

- 10.1 Upon the expiration of 30 days from the date that the person or his duly authorized representative receives a copy of the Commissioners Court Order determining that a nuisance does exist, the Administrator shall inspect the premises to determine if the public nuisance has been abated.
- 10.2 If the public nuisance has been abated, then the Administrator shall notify Commissioners Court in writing that the public nuisance has been abated and take no further action thereon.
- 10.3 If the public nuisance has not been abated, the Administrator shall estimate the cost to abate the public nuisance and forward the nuisance to the Commissioners Court.
- 10.4 The Commissioners Court shall determine whether or not
 - a. to order the abatement of the public nuisance;
 - b. to assess the cost of abating the public nuisance, the cost of legal notification by publication, if said procedure was utilized, an administrative fee of \$100.00, plus interest beginning on the 31st day after the date of the assessment on the owner of the premises on which the public nuisance exists; and/or
 - c. to assess the costs of abating the public nuisance, the cost of legal notification by publication, if said procedure was utilized, an administrative fee of \$100.00, plus interest beginning on the 31st day after the date of the assessment against the premises on which the public nuisance exists.

Section 11. Additional Duties of the Administrator

- 11.1 If an owner fails or refuses to abate a public nuisance and the Commissioners Court determines to abate the same pursuant to Subchapter A of this Order, then the Administrator shall proceed to let a county contract for such abatement. The procedure for letting such contract shall be substantially the same as that for letting county construction contracts. The abatement of the public nuisance shall be in compliance with any applicable federal, state,

and local laws, rules, procedures, and ordinances. Upon completion of such abatement, the Administrator shall calculate the cost that the County incurred in abating the nuisance.

- 11.2 If the Commissioners Court has ordered assessment of such costs against the property on which the nuisance exists, the Administrator shall prepare the lien documents and, after such documents are reviewed by the County Attorney, record same in the Official Public Records of Real Property of Harris County. The amount of the lien shall be the amount of the cost of removal, the cost of legal notification by publication, if said procedure was utilized, an administrative fee of \$100, plus interest beginning on the 31st day after the date of the assessment. The original lien documents shall be returned to the Administrator after recording. The County is authorized by Section 343.023 of the Texas Health and Safety Code, as amended, to collect 10% interest per year on assessments pursuant to these procedures.
- 11.3 If the Commissioners Court has ordered assessment of such costs against the owner of the premises on which the nuisance exists, then the Administrator will request the County Attorney to proceed to collect the amount of the cost of removal, the cost of legal notification by publication, if said procedure was utilized, an administrative fee of \$100 plus interest beginning on the 31st day after the date of the assessment, from said owner. The County Attorney may file suit to recover same if the County Attorney determines that the suit is necessary and economically feasible.
- 11.4 Upon the satisfaction of any judgment or order issued pursuant to Subchapter A of this Order, the Administrator is authorized to sign any release or other document, upon review and approval by the County Attorney, to confirm that said orders or judgments have been complied with. This includes, but is not limited to, releases of liens filed in the Official Public Records of Real Property of Harris County.

Subchapter B. Abatement and Removal of a Junked Vehicle as a Public Nuisance from Private Property

Section 1. Scope and Purpose

- 1.1 These procedures are adopted by the Commissioners Court of Harris County pursuant to Sections 5.09 - 5.12 of Tex. Rev. Civ. Stat. Ann. art. 4477-9a, as amended, and shall apply in the unincorporated areas of Harris County. Ch. 391
Texas
Code
- 1.2 The provisions of this Order are not penal. However, proceedings conducted to abate nuisances in accordance with this Order shall not be construed to preclude prosecution under Tex. Rev. Civ. Stat. Ann. art. 4477-9a, §5.08, as amended, or vice versa. Further, these procedures do not affect the authority of a peace officer to authorize the immediate removal, as an obstruction to traffic, of a motor vehicle left on public property.
- 1.3 All procedures under this Order must be administered by regularly salaried, full-time employees of the County, except that the removal of a motor vehicle or part of a motor vehicle from property may be by any duly authorized person.

Section 2. Definitions

As used in Subchapter B of this Order, the words and terms defined in this section shall have the meanings ascribed, unless the context clearly indicates another meaning.

Administrator means the Director of the Harris County Health Department or a county employee under his/her supervision and control.

Antique auto means a passenger car or truck that was manufactured in 1925 or before or a passenger car or truck that is at least thirty-five (35) years old.

Collector means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest.

Commissioners Court means the Commissioners Court of Harris County.

County means Harris County, Texas.

Demolisher means a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

Garagekeeper means an owner or operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of a motor vehicle.

Hearing Examiner means any board, commission, or official designated by the Commissioners Court to conduct a public hearing requested in accordance with Subchapter B of this Order.

Investigator means a county employee, officer (including a peace officer), or agent authorized by the Administrator to investigate complaints filed under Subchapter B of this Order.

Junked vehicle means a motor vehicle as defined in Section 1, Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701d-11, Vernon's Texas Civil Statutes):

- (1) that is inoperative; and
- (2) that does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle safety inspection certificate, that is wrecked, dismantled, partially dismantled, or discarded, or that remains inoperative for a continuous period of more than forty-five (45) days;

provided that the term "junked vehicle" shall not be construed to include:

- (1) a motor vehicle or part of a motor vehicle that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
- (2) a motor vehicle or part of a motor vehicle that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard; or
- (3) an unlicensed, operable or inoperable antique or special interest vehicle stored by a collector on the collector's property, if the vehicle and the outdoor storage area are maintained in a manner so that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

Junkyard means an establishment or place of business maintained, used, or operated for storing, keeping, buying, or selling junk, for processing scrap metal, or for maintaining or operating an automobile junkyard. The term includes garbage dumps and sanitary fills.

Motor vehicle means a motor vehicle subject to registration under the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes) and includes a motorboat, outboard motor, or vessel subject to registration under Chapter 31, Texas Parks and Wildlife Code.

Order means the "Order Adopting Procedures for the Abatement of Neighborhood Nuisances and the Abatement and Removal of a Junked Vehicle as a Public Nuisance from Private and Public Property" which was adopted on August 24, 1993.

Peace officer means a sheriff, deputy sheriff, constable, or deputy constable.

Person has the meaning assigned to that term by subdivision (2) of Section 311.005 of the Texas Government Code, as amended.

Public nuisance shall mean the following: a junked vehicle that is located in a place where it is visible from a public place or public right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, and is detrimental to the economic welfare of the state by producing urban blight adverse to the maintenance and continuing development of the municipalities in the state.

Special interest vehicle means a motor vehicle of any age that has not been altered or modified from the original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

Storage facility means a garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing, or parking of motor vehicles.

Section 3. Junked Vehicle as Public Nuisance

A person may not maintain a public nuisance, as that term is defined in Subchapter B of this Order.

Section 4. Investigation

- 4.1 The Commissioners Court of Harris County hereby appoints the Director of the Harris County Health Department, a regularly salaried, full-time County employee, to administer this program and the abatement procedures prescribed in Subchapter B of this Order. Investigators designated by the Administrator shall assist him/her in the administration of this program. Upon the completion of each investigation, the Investigator shall provide the Administrator with a copy of such file.
- 4.2 A complaint to abate a public nuisance under these procedures may be initiated by any person by written complaint filed with the Administrator.
- 4.3 The Administrator shall keep a record of all complaints received.
- 4.4 The Administrator shall assign an Investigator to review the complaint and make a determination as to whether a public nuisance exists. In order to administer these procedures, an Investigator may enter private land to examine a motor vehicle or motor vehicle part, obtain information as to the identity of the vehicle, and remove or cause the removal of a motor vehicle or motor vehicle part that constitutes a public nuisance.

- 4.5 If the Investigator determines that a public nuisance does not exist, the Investigator shall submit his findings to the Administrator who will then close the matter and take no further action thereon.
- 4.6 If the Investigator determines that a public nuisance exists, the Investigator shall submit his findings to the Administrator. The Investigator shall serve a "Notice to Abate Nuisance" which shall comply with and be served as provided in Section 5 and Section 6 of Subchapter B of this Order.
- 4.7 After the expiration of 10 days from the date on which the County's Notice to Abate Nuisance is served, the Investigator shall inspect the premises described in the complaint.
- 4.8 If the Investigator determines that the public nuisance has been removed and abated, s/he shall make a record of his/her findings, provide a copy of such findings to the Administrator, and take no further action thereon.
- 4.9 If the Investigator determines that the public nuisance has not been removed and abated and that a hearing has been requested, the Investigator shall follow the procedures set out in Section 8 of Subchapter B of this Order.
- 4.10 If the Investigator determines that the public nuisance has not been removed and abated and that a hearing has not been requested, the Investigator shall follow the procedures set out in Section 7 of Subchapter B of this Order.

Section 5. Notice Requirements

The Notice to Abate Nuisance on Private Property shall contain the following information:

- a. The nature of the public nuisance on private property;
- b. The street address or other general description of the property on which the public nuisance exists;
- c. That the owner, lien holder, and/or owner or occupant of the private premises on which the public nuisance exists and who receives the notice must remove and abate the public nuisance within ten (10) days after the date on which the notice is served;
- d. That failure to remove and abate the public nuisance may result in removal and abatement by the County;
- e. That Tex. Rev. Civ. Stat. Ann. art. 4477-9a, §5.08, as amended, provides that a person commits an offense (punishable by a fine not to exceed \$200) if that person maintains a public nuisance, and that on conviction, the court shall order removal and abatement of the nuisance;
- f. That the last registered owner of the junked motor vehicle, any lien holder of record, or the owner or occupant of the private premises on which the public nuisance exists is entitled to submit, before the expiration of the 10-day period after service of the notice, a written request for a hearing which should contain the name and address of the person to be notified of the date, time, and place of the hearing;
- g. That said Request for Hearing may be given to the Administrator by hand delivery to his office which is currently located at 2501 Dunstan, Houston, Texas, or by certified mail, return receipt requested, addressed to the Director of the Harris County Health Department, P. O. Box 25249, Houston, Texas 77265; and
- h. That the owner of the junked motor vehicle, any lien holder of record, or the owner or occupant of the private premises is entitled to appear at the scheduled hearing and is entitled to present evidence, examine witnesses, and argue on the junked vehicle owner's behalf.

Section 6. Service of Notice to Abate Nuisance

- 6.1 For a nuisance on private property, the Investigator shall send written Notice to Abate Nuisance by certified mail, with a 5-day return requested, to the last known registered owner of the junked motor vehicle, any lien holder of record, and to the owner or occupant of the private premises on which the public nuisance exists.
- 6.2 If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle.
- 6.3 If the last known registered owner is physically located, the notice may be hand delivered.
- 6.4 If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than 10 days after the date of return.

Section 7. Procedures When No Hearing is Requested

- 7.1 If the Investigator determines that the public nuisance has not been abated and a hearing has not been requested, then the Investigator shall request that a Peace Officer research and verify ownership of the junked vehicle.
- 7.2 If the title search reflects a registered owner or lien holder other than the person(s) shown on the Notice to Abate Nuisance, the Investigator shall serve a Notice to Abate Nuisance on the person named in the certificate of title as set out in Section 5 and Section 6 of Subchapter B of this Order, as if no prior action had been taken on the complaint subsequent to the service of the first Notice to Abate Nuisance.
- 7.3 If the title search shows the registered owner and lien holder to be the persons served with the Notice to Abate Nuisance, the Investigator shall so advise the Administrator who will then:
 - a. Estimate the cost to remove and abate the public nuisance; and
 - b. Forward the estimate to the Commissioners Court.
- 7.4 The Commissioners Court shall determine whether or not to order the removal and abatement of the public nuisance. The Commissioners Court determining the final disposition shall be entered in the minutes of Commissioners Court.
- 7.5 If the Commissioners Court determines that a public nuisance does not exist, then the Administrator shall close the matter and take no further action thereon.
- 7.6 If the Commissioners Court determines that a public nuisance exists and that the public nuisance should be removed and abated, a copy of such Commissioners Court Order shall be sent by the Administrator by certified mail, return receipt requested, to the last registered owner of the junked motor vehicle, any lien holder of record, and the owner or occupant of the private premises on which the public nuisance exists.

Section 8. Public Hearing before Hearing Examiner

- 8.1 A person receiving a Notice to Abate Nuisance under Subchapter B of this Order is entitled to a public hearing before a Hearing Examiner. Such a request may be perfected by submission of a written request to the Administrator within 10 days of receipt of the Notice to Abate Nuisance.

- 8.2 If a hearing has been requested and no Hearing Examiner has been previously appointed, the Administrator shall request that one be appointed by the Commissioners Court.
- 8.3 The Hearing Examiner shall set a hearing date and send a Notice of Hearing to the person and address stated in the Request for Hearing or by serving the person in the same manner as used for serving the Notice to Abate Nuisance in Section 6 of Subchapter B of this Order. The Notice of Hearing shall state the date, time, and place of the hearing and shall be provided at least ten (10) days prior to the date of the hearing. The ten-day notice requirement may be waived by the person requesting the hearing if such waiver is in writing and signed by the person requesting the hearing.
- 8.4 The registered owner, the lien holder, the owner or occupant of the private property on which the nuisance exists, and their representatives present at the hearing shall be entitled to present testimony and other evidence, examine witnesses, and argue on the registered owner's behalf.
- 8.5 Any interested person, including the Administrator and Investigator, may appear and present testimony and other evidence.
- 8.6 All persons testifying at the hearing shall be under oath.
- 8.7 The Hearing Examiner shall be allowed to question any person testifying. The Hearing Examiner shall assess the testimony fairly and impartial and in accordance with the law.
- 8.8 The Hearing Examiner shall make a written determination as to whether a public nuisance exists and sign such written determination. A copy of such determination shall be provided to the Administrator.
- 8.9 If the hearing results in the determination that a public nuisance does exist, the Hearing Examiner shall enter an order requiring the removal of the motor vehicle or motor vehicle part. Such order shall include a description of the vehicle and the correct identification number and license number of the vehicle if the information is available at the site. A copy of such determination shall be sent to the Investigator who shall hand deliver or send by certified mail, return receipt requested, a copy of the written determination of the Hearing Examiner to the person designated in the Request for Hearing. If mailed, it shall be mailed to the address designated in said request.
- 8.10 If the hearing results in the determination that a public nuisance does not exist, the Investigator shall send notice to that effect to the person(s) and address(es) designated in the Request for Hearing and take no further action thereon.

Section 9. Post-Hearing Procedures When No Appeal Filed

- 9.1 If the Hearing Examiner determines that a public nuisance exists, but no appeal is filed pursuant to Section 10 of Subchapter B of this Order, upon the expiration of 10 days from receipt of the determination by the person designated in the Request of Hearing, the Investigator will determine whether or not the public nuisance has been abated.
- 9.2 If the public nuisance has been abated, then the Investigator shall make a record thereof, provide a copy of said record to the Administrator, and take no further action thereon.
- 9.3 If the public nuisance has not been abated, the Investigator shall so advise the Administrator who will then:

- a. Estimate the cost to remove and abate the public nuisance; and
 - b. Forward the estimate to the Commissioners Court
- 9.4 The Commissioners Court shall determine whether or not to order the removal and abatement of the public nuisance. The Commissioners Court Order determining the final disposition shall be entered in the minutes of Commissioners Court.
- 9.5 If the Commissioners Court determines that a public nuisance does not exist, then the Administrator shall close the matter and take no further action thereon.
- 9.6 If the Commissioners Court determines that a public nuisance exists and that the public nuisance should be removed and abated, a copy of such Commissioners Court Order shall be sent by the Administrator by certified mail, return receipt requested, to the last registered owner of the junked motor vehicle, any lien holder of record, and the owner or occupant of the private premises on which the public nuisance exists.

Section 10. Appeal to Commissioners Court

- 10.1 An appeal from the written determination of the Hearing Examiner to Commissioners Court may be perfected by giving written Notice of Appeal to the Administrator within 10 days of receipt of a copy of the Hearing Examiner's determination by the person to be notified as shown in the Request for Hearing.
- 10.2 The Notice of Appeal must be in writing and must be signed by the person giving such Notice or his duly authorized representative. The Notice of Appeal must state the name and address of the person giving such Notice or his duly authorized representative.
- 10.3 Notice of Appeal may be given to the Administrator by hand delivery to his office which is currently located at 2501 Dunstan, Houston, Texas or by certified mail, return receipt requested, addressed to the Director of the Harris County Health Department, P.O. Box 25249, Houston, Texas 77265.
- 10.4 Upon receipt of a Notice of Appeal, the Administrator shall notify the Commissioners Court and the Commissioners Court shall set the date, time, and place for the appeal hearing.
- 10.5 The Administrator shall notify the person, or his duly authorized representative, at the address designated in the Notice of Appeal by certified mail, return receipt requested, or the notice may be delivered in person, of the date, time, and place of the appeal hearing set by Commissioners Court. This notice shall be provided at least ten (10) days prior to the date of the appeal hearing. The ten (10) day notice requirement herein may be waived by the person filing such appeal if such waiver is in writing and signed by the person filing the appeal.
- 10.6 The Commissioners Court will conduct the appeal hearing and shall hear the testimony of any witness who shall be under oath. Each commissioner and the county judge may question any witness testifying.
- 10.7 The Commissioners Court Order determining the final disposition shall be entered in the Minutes of Commissioners Court. A copy of such Commissioners Court Order shall be sent by the Administrator by certified mail, return receipt requested, to the person or his duly authorized representative at the address designated in the Notice of Appeal.
- 10.8 If Commissioners Court determines that a public nuisance does not exist, then the Administrator shall close the matter and take no further action thereon.

- 10.9 If Commissioners Court determines that a public nuisance does exist, then the Administrator shall mail by certified mail, return receipt requested, to the person or his duly authorized representative at the address designated in the Notice of Appeal, a copy of such Commissioners Court Order making such determination.

Section 11. Post-Appellate Procedures

- 11.1 Upon the expiration of 10 days from the date that the person or his duly authorized representative receives a copy of the Commissioners Court Order determining that a nuisance does exist, the Administrator shall inspect the premises to determine if the public nuisance has been abated.
- 11.2 If the public nuisance has been abated, then the Administrator shall notify Commissioners Court in writing that the public nuisance has been abated and take no further action thereon.
- 11.3 If the public nuisance has not been abated, the Administrator shall estimate the cost to abate the public nuisance and forward the nuisance to the Commissioners Court.
- 11.4 The Commissioners Court shall determine whether or not
- a. Estimate the cost to remove and abate the public nuisance; and
 - b. Forward the estimate to the Commissioners Court
- 11.5 The Commissioners Court shall determine whether or not to order the removal and abatement of the public nuisance. The Commissioners Court Order determining the final disposition shall be entered in the minutes of Commissioners Court.
- 11.6 If the Commissioners Court determines that a public nuisance does not exist, then the Administrator shall close the matter and take no further action thereon.
- 11.7 If the Commissioners Court determines that a public nuisance exists and that the public nuisance should be removed and abated, a copy of such Commissioners Court Order shall be sent by the Administrator by certified mail, return receipt requested, to the last registered owner of the junked motor vehicle, any lien holder of record, and the owner or occupant of the private premises on which the public nuisance exists.

Section 12. Disposal of Junked Vehicles

- 12.1 Upon the expiration of 10 days after the date that the last registered owner of the junked motor vehicle, any lien holder of record, and the owner or occupant of the private premises on which the public nuisance exists receive a copy of the Commissioners Court order determining that a nuisance exists, the Investigator shall inspect the premises to determine if the public nuisance has been removed and abated.
- 12.2 If the public nuisance has been abated, then the Administrator shall notify the Commissioners Court in writing that the public nuisance has been abated and take no further action thereon.
- 12.3 If the public nuisance has not been abated, the Administrator shall proceed in accordance with county bidding procedures to let a county contract for the removal of the junked vehicle or vehicle part to a disposal site, scrapyard, demolisher, or other suitable site where the junked vehicle shall be processed as scrap or salvage. The removal and abatement of the

public nuisance shall be in compliance with any applicable federal, state, and local laws, rules, procedures, and ordinances.

- 12.4 Each contract let for the removal and disposal of junked vehicles in accordance with these procedures shall require the contractor to account for and be responsible to the County for the destruction of each vehicle within a specified time and require that the vehicles be kept and disposed of in such a manner that they may not be reconstructed or made operable.
- 12.5 It shall be unlawful for any person to cause any junked vehicle removed in accordance with these procedures to be reconstructed or made operable after it has been removed.
- 12.6 The Administrator shall ensure that notice of the identification of each junked vehicle or part of a junked vehicle removed in accordance with these procedures is given to the State Department of Highways and Public Transportation not later than the fifth day after the date of removal.

Section 13. Effective Date

These procedures set forth in Subchapters A and B of this Order shall be effective as of September 1, 1993. All previously adopted procedures are superseded and repealed.

Date: August 16, 1993

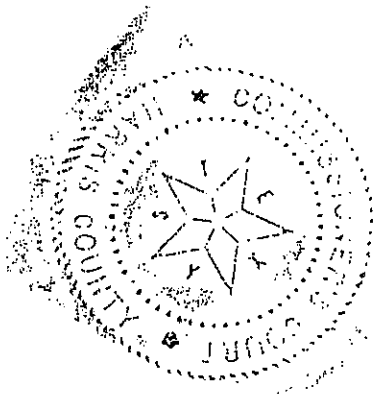
NOTICE OF A PUBLIC MEETING

TO ALL INTERESTED PARTIES:

Notice is hereby given that the Harris County Commissioners' Court will hold a public hearing on Tuesday, August 24, 1993, at during the regularly scheduled meeting at 1:45 P.M. in the Commissioners' Courtroom, Harris County Administration Building, 1001 Preston Avenue, 9th Floor, Room 934, Houston, Texas, for the purpose of considering an order adopting procedures for the abatement of neighborhood nuisances and the abatement and removal of junked vehicles as public nuisances from private property. All interested parties are invited to attend.

MOLLY A. PRYOR, County Clerk and
Ex-Officio Clerk of Commissioners'
Court of Harris County, Texas


Deputy County Clerk



Continued obligation for indebtedness

Sec. 9.03. The exclusion of a county under Section 9.01(b) does not relieve the district of its obligation to perform and observe the covenants and obligations or the conditions prescribed by the orders or resolution authorizing the issuance of the district's bonds. Acts 1991, 72nd Leg., ch. 734, § 1, eff. Aug. 26, 1991. Sec. 4.07 amended by Acts 1993, 73rd Leg., ch. 757, § 33, eff. Sept. 1, 1993; Sec. 4.13 amended by Acts 1993, 73rd Leg., ch. 757, § 34, eff. Sept. 1, 1993.

Historical and Statutory Notes

Section 2 of the 1991 Act amended V.T.C.A. Health and Safety Code Chapter 412 by adding subchapter E, consisting of §§ 412.101 to 412.134, entitled "Upper Sabine Valley". Section 2 of the 1991 Act did not take effect pursuant to § 3 of said Act, which provides:

"If a bill relating to the administration, powers, and duties of all solid waste management districts created in this state is enacted by the 72nd Legislature, Regular Session, 1991, and becomes law, Section 2 of this Act takes effect and Section 1 of this Act has no effect. If that bill is not enacted or does not become law, Section 1 of this Act takes effect and Section 2 of this Act has no effect."

No bill relating to the administration, powers, and duties of all solid waste management districts created in this state was enacted by the 72nd Legislature, Regular Session, 1991, nor became law; therefore § 2 did not take effect.

Title of Act:

An Act relating to the creation, administration, powers, duties, operations, financing, and organization of the Upper Sabine Valley Solid Waste Management District; granting the power of eminent domain and the authority to issue bonds; authorizing a tax. Acts 1991, 72nd Leg., ch. 734.

Arts. 4477-8, 4477-8a. Repealed by Acts 1989, 71st Leg., ch. 678, § 13(1), eff. Sept. 1, 1989

Historical and Statutory Notes

Section 1 of Acts 1989, 71st Leg., ch. 678, repealing these articles, adopts the Health and Safety Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding V.T.C.A. Health & Safety Code.

Without reference to the repeal of art. 4477-8 by Acts 1989, 71st Leg., ch. 678, § 13(1), § 3(e) of art.

4477-8 was amended by Acts 1989, 71st Leg., ch. 1143, § 4. Acts 1991, 72nd Leg., ch. 14, § 285(b)(75) repealed Acts 1989, 71st Leg., ch. 1143, § 4, eff. Sept. 1, 1991.

Former art. 4477-8a, which related to the waste hauler regulation and licensure, was derived from Acts 1987, 70th Leg., ch. 269, §§ 1 to 8.

Art. 4477-9. Repealed by Acts 1981, 67th Leg., p. 2725, ch. 741, § 2(1), eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 5240, ch. 964, § 7(b), eff. Aug. 29, 1983

Historical and Statutory Notes

This article was repealed by § 2(1) of Acts 1981, 67th Leg., p. 2725, ch. 741 (art. 4477-9a), eff. Jan. 1, 1982, without reference to the amendment of this article by Acts 1981, 67th Leg., p. 2728, ch. 744, § 1, eff. Sept. 1, 1981. This article, as amended by Acts 1981, 67th Leg., p. 2728, ch. 744, § 1, was repealed by Acts 1983, 68th Leg., p. 5240, ch. 964, § 7(b).

Section 4 of the 1981 repealing act provides:

"This Act takes effect January 1, 1982, and applies only to offenses committed on or after that date. An offense committed before the effective date of this Act is governed by the law in effect

when the offense was committed and the prior law is continued in effect for that purpose. An offense is committed before the effective date of this Act if any element of the offense occurs before that date."

Section 9 of the 1983 repealing act provides:

"This Act is intended as a recodification only, and no substantive change is intended. Section 3.11, Code Construction Act (Article 5429b-2, Vernon's Texas Civil Statutes), applies to this Act as if this Act were part of the state's continuing statutory revision program."

Art. 4477-9a. Litter Abatement Act

Sec. 1.01. Repealed by Acts 1989, 71st Leg., ch. 678, § 13(1), eff. Sept. 1, 1989.

Construction of Act

Sec. 1.02. The Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision of this Act except as otherwise expressly provided by this Act.

Secs. 2.01 to 2.09. Repealed by Acts 1989, 71st Leg., ch. 678, § 13(1), eff. Sept. 1, 1989.

Secs. 3.01 to 3.03. Repealed by Acts 1989, 71st Leg., ch. 678, § 13(1), eff. Sept. 1, 1989.

ARTICLE IV. HIGHWAY BEAUTIFICATION

Definitions

Sec. 4.01. In this article:

(1) "Commission" means the State Highway and Public Transportation Commission.

(2) "Interstate system" means that portion of the national system of interstate and defense highways that is located in this state and is designated officially by the commission and approved pursuant to Title 23, United States Code.

(3) "Primary system" means that portion of connected main highways located in this state that is designated officially by the commission and approved pursuant to Title 23, United States Code.

(4) "Outdoor advertising" or "sign" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing designed, intended, or used to advertise or inform, if any part of the advertising or information content is visible from a place on the main-traveled way of the interstate or primary system.

(5) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, or waste, or junked, dismantled, or wrecked automobiles or automobile parts, or iron, steel, and other old or scrap ferrous or nonferrous material.

(6) "Automobile graveyard" means an establishment or place of business that is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(7) "Junkyard" means an establishment or place of business maintained, used, or operated for storing, keeping, buying, or selling junk, for processing scrap metal, or for maintaining or operating an automobile graveyard. The term includes garbage dumps and sanitary fills.

(8) "Urbanized area" means an area defined by the commission in cooperation with local officials, subject to the approval of the secretary of the United States Department of Transportation, which as a minimum includes an urbanized area as defined by the United States Bureau of the Census or that part of a multistate urbanized area located in this state.

(9) "Urban area" means an area defined by the commission in cooperation with local officials, subject to the approval of the secretary of the United States Department of Transportation, which as a minimum includes an urban place as designated by the United States Bureau of the Census having a population of 5,000 or more and not located within an urbanized area.

Purpose of Article

Sec. 4.02. Subject to the availability of state and federal funds, it is the intent of the legislature to comply with the Highway Beautification Act of 1965 (Public Law 89-285)¹ to the extent that it is implemented by Congress. This article is conditioned on the provisions of that law. The legislature declares that to promote the health, safety, welfare, morals, convenience, and enjoyment of the traveling public and to protect the public investment in the interstate and primary highway systems, it is necessary to regulate the erection and maintenance of outdoor advertising and the establishment, operation, and maintenance of junkyards and automobile graveyards in areas adjacent to the interstate and primary systems. The legislature considers that the landscaping and developing of recreational areas, acquisition of interests in and improvement of strips of land within, adjacent to, or within view of the interstate or primary system, which are necessary for the restoration, preservation, and enhancement of scenic beauty, and developing publicly owned and controlled rest and sanitary facilities within or adjacent to highway rights-of-way are means of protecting and providing for the general welfare of the traveling public and promoting the safety of citizens using the highways of this state.

¹ 23 U.S.C.A. §§ 131, 136, 319.

Control of Outdoor Advertising

Sec. 4.03. (a) Except as provided by this section, a person commits an offense if that person erects or maintains outdoor advertising within 660 feet of the nearest edge of a right-of-way if the advertising is visible from the main-traveled way of the interstate or primary system or erects or maintains outdoor advertising outside an urban area if the advertising is located more than 660 feet from the nearest edge of a right-of-way, is visible from the main-traveled way of the interstate or primary system, and was erected for the purpose of having its message seen from the main-traveled way of the interstate or primary system.

(b) A person does not commit an offense if that person erects and maintains in an area proscribed by Subsection (a) of this section:

(1) a directional or other official sign authorized by law, including a sign pertaining to a natural wonder or a scenic or historic attraction;

(2) a sign advertising the sale or lease of the property on which it is located;

(3) a sign advertising activities conducted on the property on which it is located;

(4) a sign located within 660 feet of the nearest edge of a right-of-way in an area in which the land use is designated industrial or commercial under authority of law;

(5) a sign located within 660 feet of the nearest edge of a right-of-way in an area in which the land use is not designated industrial or commercial under authority of law but in which the land use is consistent with an area designated industrial or commercial;

(6) a sign located on property within the limits proscribed by Subsection (a) of this section that has as its purpose the protection of life and property; or

(7) a sign erected on or before October 22, 1965, that the commission, with the approval of the secretary of the United States Department of Transportation, determines to be a landmark sign of such historic or artistic significance that preservation is consistent with the purposes of this section.

(c) The determination of whether an area is to be designated industrial or commercial shall be based on actual land use under criteria established by rules of the commission.

(d) The commission may adopt rules to regulate the orderly and effective display of outdoor advertising consistent with the customary use of outdoor advertising in this state in an area in which the land use is designated industrial or commercial under authority of law and in an area in which the land use is not designated industrial or commercial but in which the land use is consistent with areas designated industrial or commercial in the manner provided by Subsection (c) of this section.

(e) The commission may enter into agreements with the secretary of the United States Department of Transportation to regulate the orderly and effective display of outdoor advertising in the areas described in Subsection (d) of this section.

(f) The commission may purchase or acquire by eminent domain a sign that is lawfully in existence on any highway in the interstate or primary system.

(g) If the commission takes a sign, the commission shall pay just compensation:

(1) to the owner for the right, title, leasehold, and interest in the sign; and

(2) to the owner or, if appropriate, the lessee of the real property on which the sign is located for the right to erect and maintain the sign.

(h)(1) The legislature declares that signs erected and maintained in violation of this Act endanger the health, safety, welfare, morals, convenience, and enjoyment of the traveling public and the protection of the public investment in the interstate and primary highway systems and thereby constitute a public nuisance.

(2) An owner of a sign erected or maintained in violation of this section shall remove the sign upon written notification by certified mail from the Texas Department of Transportation. If the owner of a sign does not remove the sign within 45 calendar days of the date of the notice, the department may direct the attorney general to initiate injunctive proceedings to enjoin the owner of the sign from maintaining the sign and requiring the effective removal of the sign.

(3) In an action brought under Subdivision (2) of this subsection, the state is entitled to recover from the owner of a sign removed as a result of injunctive proceedings all

administrative and legal costs and expenses incurred to effect removal of the sign, including, but not limited to, court costs and reasonable attorney's fees.

(i)(1) In addition to being subject to a criminal penalty or injunctive action as otherwise provided by law, a person who intentionally violates this section is liable to the state for a civil penalty. The attorney general may sue to collect the penalty.

(2) The amount of the civil penalty is not less than \$500 nor more than \$1,000 for each violation, depending on the seriousness of the violation. A separate civil penalty may be collected for each day on which a continuing violation occurs.

(3) Civil penalties collected under this section shall be deposited in the state treasury to the credit of the state highway fund.

Licenses

Sec. 4.04. (a) A person who has not obtained a license under this article commits an offense if that person erects or maintains a sign:

(1) within 660 feet of the interstate or primary system, if the sign is visible from the main-traveled way; or

(2) outside an urban area if the sign is located more than 660 feet from the nearest edge of right-of-way, is visible from the main-traveled way of the interstate or primary system, and was erected for the purpose of having its message seen from the main-traveled way of the interstate or primary system.

(b) The commission shall issue a license to a person who:

(1) completes the application form specified by the commission within the time specified by the commission;

(2) pays the license fee as determined by the commission; provided, however:

(A) such license fee and those permit fees required by Section 4.05 of this article shall not exceed an amount reasonably necessary to cover the administrative costs incurred to enforce this article; and

(B) any permit renewal fees paid in advance of the effective date of this article shall be either refunded or prorated as determined by the commission; and

(C) at the commission's discretion, the license authorized pursuant to this section may be issued for periods of one year or longer and the license fee for such license may be based on a graduated scale by number of signs owned by a licensee; and

(3) files with the commission a surety bond:

(A) in the amount of \$2,500 for each county in the state in which the person erects or maintains outdoor advertising; and

(B) payable to the commission to reimburse it for removal costs of a sign the licensee unlawfully erects or maintains.

(c) A person may not be required to provide more than \$10,000 in surety bonds.

(d) For the efficient management and administration of this article and in an effort to reduce the number of employees required to enforce such provisions, the commission shall promulgate rules for the issuance of standardized forms for submission by licensees which accurately reflect the number, location, or other information required by the commission of each licensee's signs.

(e) The commission's only responsibility for the regulation of signs shall be on federal-aid primary highways, interstate highways, state highways, and farm-to-market roads.

(f) The commission may revoke or suspend a license issued under this section if the licensee:

(1) violates a provision of this article; or

(2) violates a commission rule adopted under this article.

(g) A person whose license is revoked or suspended may appeal the revocation or suspension to a district court in Travis County. The appeal must be taken not later than the 15th day after the day of the commission's action.

(h) The commission may promulgate rules for the implementation of the provisions of this section and for the reissuance of a revoked or suspended license and may set fees for such reissuance.

Permits

Sec. 4.05. (a) A person who has a license commits an offense if that person erects or maintains a sign for which a license is required by Section 4.04(a) of this article unless that person also has a permit for that sign.

(b) The commission shall adopt rules specifying:

(1) a reasonable fee for each permit; such permit fees and the license fee required by Section 4.04 of this article shall not exceed an amount reasonably necessary to cover the administrative costs incurred to enforce this article;

(2) the time for and manner of applying for a permit and the form of the permit application; and

(3) the information that must be in a permit application.

(c) The commission shall issue a permit to a person with a license whose license application complies with the commission's rules adopted under Section 4.04 of this article and whose sign, or leased sign, if erected, would comply with this article and the commission's rules adopted under Section 4.03(d) of this article.

(d) A permit issued to control the erection and maintenance of outdoor advertising by a political subdivision of this state within the jurisdiction of the political subdivision shall be accepted in lieu of the permit required by this section if the erection and maintenance of outdoor advertising is in compliance with Section 4.04 of this article and the commission's rules adopted under Section 4.03(d) of this article.

(e) Funds the commission receives under this article shall be deposited in the state treasury in a special fund to be known as the Texas highway beautification fund. The commission shall use the fund in the administration of this article.

Exceptions

Sec. 4.06. (a) A person is not required to obtain a license or permit to erect or maintain a sign advertising the sale or lease of the property on which it is located.

(b) A person is not required to obtain a license or permit to erect or maintain a sign that relates solely to an activity conducted on the property on which the sign is erected or maintained.

(c) This article does not apply to a sign or marker giving information about the location of underground electric transmission lines, telegraph or telephone properties and facilities, pipelines, public sewers, or waterlines.

(d) The combined license and permit fees may not be more than \$10 for a sign erected and maintained by a nonprofit organization in a municipality or the extraterritorial jurisdiction of a municipality if the sign advertises or promotes only the municipality or another political subdivision whose jurisdiction is in whole or in part concurrent with the municipality. The nonprofit organization is not required to file a bond as provided by Section 4.04(b)(3) of this Act.

Official Signs

Sec. 4.07. (a) In this section, "specific information logo sign" means a rectangular sign panel imprinted with the words "GAS," "FOOD," "LODGING," or "CAMPING," or with a combination of those words, and the names of commercial establishments offering those services.

(b) The commission shall contract with a person, firm, group, or association in the State of Texas to erect and maintain signs that give specific information of interest to the travelling public, including specific brand names, at appropriate locations along interstate highways in each county with a population less than 20,000.

(c) The commission shall:

(1) regulate the content, composition, placement, erection, and maintenance of specific information logo signs and supports within interstate highway rights-of-way; and

(2) adopt rules necessary to administer and enforce this section.

(d) A commercial establishment identified on a specific information logo sign shall conform to all applicable laws concerning the provision of public accommodations without regard to race, religion, color, sex, or national origin.

(e) To be eligible to have its name displayed on a specific information logo sign, a commercial establishment must provide gas, food, lodging, or camping and be located not farther than three miles from an interchange on an interstate highway. If no service is located within three miles of an interchange, the commission may grant permits for commercial establishments not farther than 15 miles from the interchange.

(f) If an establishment provides gas, the establishment must provide:

- (1) vehicle services, including providing fuel, oil, and water;
- (2) if the establishment is not a self-service station, tire repair;
- (3) restroom facilities and drinking water;
- (4) continuous operation at least 12 hours a day, seven days a week; and
- (5) a telephone for use by the public.

(g) If an establishment provides food, the establishment must provide:

- (1) a license or other evidence of compliance with public health or sanitation laws, if required by applicable other law;
- (2) continuous operation at least 12 hours a day to serve three meals a day;
- (3) seating capacity for at least 16 people;
- (4) public restrooms; and
- (5) a telephone for use by the public.

(h) If an establishment provides lodging, the establishment must provide:

- (1) a license or other evidence of compliance with laws regulating facilities providing lodging, if required by applicable other law;
- (2) at least 10 rooms; and
- (3) a telephone for use by the public.

(i) If an establishment provides camping, the establishment must provide:

- (1) a license or other evidence of compliance with laws regulating camping facilities, if required by applicable other law;
- (2) adequate parking accommodations; and
- (3) modern sanitary facilities and drinking water.

(j) A specific information logo sign must:

- (1) have a blue background with a white reflective border; and
- (2) contain a principal legend equal in height to the directional legend.

(k) A specific information logo sign may not:

- (1) contain a message, symbol, or trademark that resembles an official traffic control device;
- (2) have vertical spacing between establishment names that exceeds eight inches or horizontal spacing between establishment names that exceeds 12 inches;
- (3) contain more than four establishment names for each service on one sign panel; or
- (4) contain logos for more than one service on a sign panel except in an area where not more than two qualified establishments are available for a service, in which event a sign panel may contain logos for two services.

(l) The contractor shall place a specific information logo so that:

- (1) the sign is at least 800 feet from the previous interchange and at least 800 feet from the exit direction sign at the interchange from which the services are available;
- (2) there are at least 800 feet between two signs having the same legend, but the signs are not excessively spaced;
- (3) a motorist, after following the sign, can conveniently reenter the highway and continue in the original direction of travel; and
- (4) if the service facilities are not visible from a single-exit interchange ramp terminal, the signs are placed along the ramp or at the ramp terminal.

(m) A specific information logo sign that is placed along a ramp or at a ramp terminal must be a duplicate of the corresponding establishment logo sign except that the ramp sign must

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be smaller and omit the service information. A ramp sign shall include the distance to the commercial establishment and directional arrows instead of directions written in words.

(n) The commission shall remit money received under this section to the state treasurer for deposit into the state highway fund.

Control of Junkyards and Automobile Graveyards

Sec. 4.08. (a) A person commits an offense if that person establishes, operates, or maintains a junkyard or automobile graveyard if any portion of it is within 1,000 feet of the nearest edge of a right-of-way of the interstate or primary system, except:

(1) a junkyard or automobile graveyard screened by natural objects, plantings, fences, or other appropriate means so that it is not visible from the main-traveled way of the interstate or primary system; or

(2) a junkyard or automobile graveyard located in an area that is a zoned or unzoned industrial area.

(b) The determination of whether an area is to be designated industrial shall be based on actual land use under criteria established by rules of the commission.

(c) The commission may screen with natural objects, plantings, fences, or other appropriate means, a lawfully existing junkyard or automobile graveyard if the junkyard or automobile graveyard is within 1,000 feet of the nearest edge of a right-of-way of the interstate or primary system. The commission may acquire an area outside of a highway right-of-way so that a junkyard or automobile graveyard may be screened from the main-traveled way of the interstate or primary system.

(d) The commission may adopt rules governing the location, planting, construction, and maintenance of the materials used in screening junkyards and automobile graveyards.

(e) If the commission determines that screening a junkyard or automobile graveyard is not feasible, the commission shall pay just compensation to:

(1) the owner of the junkyard or automobile graveyard for its relocation, removal, or disposal; and

(2) the owner or, if appropriate, the lessee of the real property on which the junkyard or automobile graveyard is located for the taking of the right to erect and maintain a junkyard or automobile graveyard.

(f) The commission shall compensate an owner of a junkyard or automobile graveyard and an owner or lessee of real property on which the junkyard or automobile graveyard is located if the junkyard or automobile graveyard is lawfully in existence on any highway in the interstate or primary system.

Landscaping and Scenic Enhancement

Sec. 4.09. (a) The commission may acquire, improve, and maintain a strip of land adjacent to a federal aid highway in this state if the land is necessary to restore, preserve, or enhance scenic beauty. The commission may also acquire and develop rest and recreation areas and sanitary and other facilities within or adjacent to a highway right-of-way if the area or facility is necessary to accommodate the traveling public.

(b) The interest in land authorized by this section to be acquired and maintained may be the fee simple or a lesser interest, as determined necessary by the commission. The acquisition may be by gift, purchase, exchange, or condemnation.

Powers of Acquisition

Sec. 4.10. (a) The commission may acquire by gift, purchase, exchange, or condemnation land or an interest in land and property or a property right of any kind or character that it considers necessary or convenient to carry out this article.

(b) On delivery to and acceptance by the commission of instruments conveying to the state an interest in land, property, or property rights considered necessary or convenient by the commission to effectuate the purposes of this article, the commission shall prepare and transmit to the comptroller of public accounts vouchers covering the commission's costs in acquiring the interests in land, property, or property rights, and the comptroller shall issue warrants on the appropriate account covering the state's obligation as evidenced by the vouchers.

(c) Land owned by the state or by a state agency or department is subject to the terms of this article.

(d) The exercise of the power of eminent domain authorized by this article is the same as that authorized by Section 4, Chapter 300, Acts of the 55th Legislature, Regular Session, 1957 (Article 6674w-3, Vernon's Texas Civil Statutes).

Recording and Disposal of Surplus Property

Sec. 4.11. (a) In the implementation of this article instruments conveying land or an interest in land to the state must be recorded in the deed records of the county or counties in which the land is situated. The state shall pay the fees for recording the instruments in the same manner as fees are paid for the recording of highway right-of-way instruments and in accordance with the laws of this state establishing fees to be charged by the county clerk for the recording of these instruments.

(b) Land or an interest in land acquired to carry out this article that becomes surplus and is, in the opinion of the State Highway and Public Transportation Commission, no longer needed by the state for the purposes for which it was acquired or for highway purposes shall be disposed of in accordance with the provisions of Chapter 99, General Laws, Acts of the 42nd Legislature, Regular Session, 1931 (Article 6673a, Vernon's Texas Civil Statutes).

Penalty

Sec. 4.12. A person who wilfully commits an offense under this article or wilfully violates any rule adopted by the commission in accordance with this article is, on conviction, subject to a fine of not less than \$500 nor more than \$1,000. Each day of the wilful offense or violation constitutes a separate offense.

Regulation on State Highway 288

Sec. 4.13. (a) The legislature finds that:

(1) State Highway 288 is frequented for scenic purposes by residents from every part of the state; and

(2) protecting the scenic characteristics of the highway is of concern to the entire state.

(b) The power granted under this section is to encourage the scenic use of State Highway 288.

(c) The Texas Department of Transportation may license, control, or otherwise regulate the erection of a sign that is located within 1,000 feet of the center line of that part of State Highway 288 that is located in the unincorporated area of the county.

(d) This section applies to signs erected on or after the effective date of this Act.

(e) A violation of a regulation adopted under this section is a Class C misdemeanor.

(f) Nothing in this section shall be construed to limit any authority granted to the Texas Department of Transportation under this Act.

ARTICLE V. ABANDONED MOTOR VEHICLES

Definitions

Sec. 5.01. In this article:

(1) "Police department" means the Department of Public Safety, the police department of any city, town, or municipality, acting under the general police power authority as vested in such department by its respective governing body, the police department of any institution of higher education, or the sheriff or a constable of any county.

(2) "Abandoned motor vehicle" means a motor vehicle that is inoperable and more than five years old and left unattended on public property for more than 48 hours, or a motor vehicle that has remained illegally on public property for a period of more than 48 hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than 48 hours, or a motor vehicle left unattended on the right-of-way of a designated county, state, or federal highway within this state for more than 48 hours or for more than 12 hours on a turnpike project constructed and maintained by the Texas Turnpike Authority.

(3) "Demolisher" means a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

(4) "Garagekeeper" means an owner or operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of a motor vehicle.

(5) "Junked vehicle" means a motor vehicle as defined in Section 1, Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701d-11, Vernon's Texas Civil Statutes):

(A) that is inoperative; and

(B) that does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle safety inspection certificate, that is wrecked, dismantled, partially dismantled, or discarded, or that remains inoperative for a continuous period of more than 45 days.

(6) "Storage facility" means a garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing, or parking of motor vehicles.

(7) "Motor vehicle" means a motor vehicle subject to registration under the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes), except that for purposes of Sections 5.02, 5.03, and 5.04 of this Act, "motor vehicle" includes a motorboat, outboard motor, or vessel subject to registration under Chapter 31, Texas Parks and Wildlife Code.

(8) "Antique auto" means a passenger car or truck that was manufactured in 1925 or before or a passenger car or truck that is at least 35 years old.

(9) "Special interest vehicle" means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

(10) "Collector" means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest.

Authority to Take Possession of Abandoned Motor Vehicles

Sec. 5.02. (a) A police department may take into custody an abandoned motor vehicle found on public or private property.

(b) A police department may employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities to remove, preserve, and store an abandoned motor vehicle it takes into custody.

Notification of Owner and Lien Holders

Sec. 5.03. (a) A police department that takes into custody an abandoned motor vehicle shall notify not later than the 10th day after taking the motor vehicle into custody, by certified mail, the last known registered owner of the motor vehicle and all lien holders of record pursuant to the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes), or Chapter 31, Parks and Wildlife Code, that the vehicle has been taken into custody. The notice shall describe the year, make, model, and vehicle identification number of the abandoned motor vehicle, set forth the location of the facility where the motor vehicle is being held, inform the owner and any lien holders of their right to reclaim the motor vehicle not later than the 20th day after the date of the notice, on payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody, or garagekeeper's charges if notice is under Section 5.05 of this article. The notice shall also state that the failure of the owner or lien holders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lien holders of all right, title, and interest in the vehicle and their consent to the sale of the abandoned motor vehicle at a public auction.

(b) If the identity of the last registered owner cannot be determined, if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lien holders, notice by one publication in one newspaper of general circulation in the area where the motor vehicle was abandoned is sufficient notice under this article. The notice by publication may contain multiple listings of abandoned vehicles, shall be published within the time requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail.

(c) The consequences and effect of failure to reclaim an abandoned motor vehicle are as set forth in a valid notice given under this section.

(d) A police department or an agent of a police department that takes custody of an abandoned motor vehicle is entitled to reasonable storage fees for:

(1) a period of not more than 10 days beginning on the day the department takes custody and continuing through the day the department mails notice as provided by this section; and

(2) a period beginning on the day after the day the department mails notice and continuing through the day any accrued charges are paid and the vehicle is removed.

Police department use of certain abandoned motor vehicles

Sec. 5.031. (a) If an abandoned motor vehicle has not been reclaimed as provided by Section 5.03 of this article, the police department that originally took custody of the abandoned motor vehicle may use that vehicle for police department purposes as provided by this section.

(b) The police department may use the abandoned motor vehicle for police department purposes as long as the department considers it cost-effective. If the police department discontinues use of the abandoned motor vehicle, the department shall auction the vehicle as provided by Section 5.04 of this article.

(c) This section does not apply to an abandoned motor vehicle with a garagekeeper's lien.

(d) This section does not apply to a motor vehicle that is taken into custody by a police department located in a county with a population of 2.4 million or more according to the most recent federal decennial census and that is removed to a privately owned storage facility.

Auction of Abandoned Motor Vehicles

Sec. 5.04. If an abandoned motor vehicle has not been reclaimed as provided by Section 5.03 of this article, the police department may use the abandoned motor vehicle for police department purposes as provided by Section 5.031 of this article or sell the vehicle at a public auction. Proper notice of the public auction shall be given, and in the case of a garagekeeper's lien, the garagekeeper shall be notified of the time and place of the auction. The purchaser of the motor vehicle takes title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the police department, and is entitled to register the purchased vehicle and receive a certificate of title. From the proceeds of the sale of an abandoned motor vehicle, the police department shall reimburse itself for the expenses of the auction, the costs of towing, preserving, and storing the vehicle that resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred under Section 5.03 of this article. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in a special fund that shall remain available for the payment of auction, towing, preserving, storage, and all notice and publication costs that result from placing another abandoned vehicle in custody, if the proceeds from a sale of another abandoned motor vehicle are insufficient to meet these expenses and costs. A municipality or county may transfer the amount in the special fund that exceeds \$1,000 from the special fund to the municipality's or county's general revenue account to be used by the police department.

Garagekeepers and Abandoned Motor Vehicles

Sec. 5.05. (a) A motor vehicle left for more than 10 days in a storage facility operated for commercial purposes after notice is given by registered or certified mail, return receipt requested, to the owner and to any lien holder of record under the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes) to pick up the vehicle, or for more than 10 days after a period when under a contract the vehicle was to remain on the premises of the storage facility, or a motor vehicle left for more than 10 days in a storage facility by someone other than the registered owner or by a person authorized to have possession of the motor vehicle under a contract of use, service, storage, or repair, is considered an abandoned vehicle, and shall be reported by the garagekeeper to the police department. If the notice to the owner or a lien holder is returned by the post office unclaimed, notice by one publication in one newspaper of general circulation in the area in which the vehicle was left in storage is sufficient notice.

(b) If a garagekeeper or storage facility acquires possession of a motor vehicle for a purpose other than repair, the garagekeeper or storage facility is entitled to towing, preservation, and notification charges and to reasonable storage fees, in addition to storage fees earned pursuant to contract, for a maximum of five days only until notification is mailed to the last known registered owner and all lien holders of record as provided by Subsection (a) of this section. After such notice is mailed, storage fees may continue until the vehicle is removed and all accrued charges are paid. A garagekeeper who fails to report the possession of an abandoned vehicle to the police department within 48 hours after it becomes abandoned may no longer claim reimbursement for storage of the vehicle.

(c) The police department, upon receipt of a report from a garagekeeper of the possession of a vehicle considered abandoned under the provisions of this section shall follow the notification procedures provided by Section 5.03 of this article, except that custody of the vehicle shall remain with the garagekeeper until after compliance with the notification requirements. A fee of \$5 shall accompany the report of the garagekeeper to the police department. The \$5 fee shall be retained by the police department receiving the report and used to defray the cost of notification or other cost incurred in the disposition of an abandoned motor vehicle. If the Department of Public Safety is the police department involved this fee shall be deposited in the state treasury and shall be used to defray the cost of administering this article.

(d) An abandoned vehicle left in a storage facility and not reclaimed after notice is sent in the manner provided by Section 5.03 of this article shall be taken into custody by the police department and used for police department purposes as provided by Section 5.031 of this article or sold in the manner provided by Section 5.04 of this article. The proceeds of a sale under this section shall first be applied to the garagekeeper's charges for servicing, storage, and repair, but as compensation for the expense incurred by the police department in placing the vehicle in custody and the expense of auction, the police department shall retain two percent of the gross proceeds of the sale of each vehicle auctioned, unless the gross proceeds are less than \$10. If the gross proceeds are less than \$10, the department shall retain the \$10 to defray expenses of custody and auction. If the Department of Public Safety conducts the auction, the compensation shall be deposited in the state treasury and shall be used to defray the expense incurred. Surplus proceeds remaining from an auction shall be distributed in accordance with Section 5.04 of this article.

(e) Except for the termination or limitation of claim for storage for failure to report an abandoned motor vehicle, nothing in this section may be construed to impair any lien of a garagekeeper under the laws of this state.

(f) A person charging fees under Subsection (b) of this section commits an offense if the person charges a storage fee for a period of time not authorized by that subsection. An offense under this subsection is punishable by a fine of not less than \$200 nor more than \$1,000.

Disposal to Demolishers

Sec. 5.06. (a) A person, firm, corporation, or unit of government on whose property or in whose possession is found any abandoned motor vehicle and a person who is the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, may apply to the State Department of Highways and Public Transportation for authority to sell, give away, or dispose of the vehicle to a demolisher. Nothing in this section may be construed as being in conflict with the provisions of Sections 5.09 and 5.10 of this article. The application, except one submitted by a unit of government, shall be accompanied by a fee of \$2 that shall be deposited in the state highway fund.

(b) The application must set out the name and address of the applicant, the year, make, model, and vehicle identification number of the motor vehicle, if ascertainable, together with any other identifying features, and must contain a concise statement of the facts surrounding the abandonment, a statement that the title of the motor vehicle is lost or destroyed, or a statement of the reasons for the defect of title in the owner. The applicant shall execute an affidavit stating that the facts alleged in the application are true and that no material fact has been withheld.

(c) If the State Department of Highways and Public Transportation finds that the application is executed in proper form and shows that the motor vehicle has been abandoned

on the property of the applicant or that the motor vehicle is not abandoned but that the applicant appears to be the rightful owner, the department shall follow the notification procedures as provided in Section 5.03 of this article.

(d) If an abandoned motor vehicle is not reclaimed in accordance with Section 5.03 of this article, the State Department of Highways and Public Transportation, on notification of that fact by the applicant, shall issue the applicant a certificate of authority to sell the motor vehicle to a demolisher for demolition, wrecking, or dismantling. A demolisher shall accept the certificate in lieu of the certificate of title to the motor vehicle.

(e) The State Department of Highways and Public Transportation may issue the applicant a certificate of authority to dispose of the motor vehicle to a demolisher without following the notification procedures of Section 5.03 of this article if the motor vehicle is more than eight years old and has no engine or is otherwise totally inoperable.

(f) A person in possession of an abandoned vehicle that was authorized to be towed in by a police department and that is more than eight years old and has no engine or is otherwise totally inoperable may, on affidavit of that fact and approval of the police department, apply to the State Department of Highways and Public Transportation for a certificate of authority to dispose of the vehicle to a demolisher for demolition, wrecking, or dismantling only.

(g) The State Department of Highways and Public Transportation may adopt rules and prescribe forms that are necessary to carry out the provisions of this section.

Duties of Demolishers

Sec. 5.07. (a) A demolisher who purchases or otherwise acquires a motor vehicle to wreck, dismantle, or demolish it shall obtain a valid certificate of title, sales receipt, or transfer document under Sections 5.04 and 5.10 of this Act, respectively, or a certificate of authority from the person delivering the vehicle for demolition, but the demolisher is not required to obtain a certificate of title for the motor vehicle in the demolisher's name. On demand of the State Department of Highways and Public Transportation, the demolisher shall surrender for cancellation the certificate of title or authority. The State Department of Highways and Public Transportation shall issue such forms and rules governing the surrender of auction sales receipts and certificates of title as are appropriate. The Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes) governs the cancellation of title of the motor vehicle.

(b) A demolisher commits an offense if the demolisher fails to keep an accurate and complete record of a motor vehicle purchased or received in the course of business in the manner provided by this subsection. These records must contain the name and address of the person from whom each motor vehicle was purchased or received and the date of the purchase or receipt. The records shall be open for inspection by the State Department of Highways and Public Transportation or any police department at any time during normal business hours. A record required by this subsection must be kept by the demolisher for at least one year after the transaction to which it applies. A demolisher who commits an offense under this subsection is, on conviction, subject to a fine of not less than \$100 nor more than \$1,000, to confinement in the county jail for not less than 10 days nor more than six months, or to both.

Junked Vehicles as Public Nuisance

Sec. 5.08. (a) A junked vehicle that is located in a place where it is visible from a public place or public right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the state by producing urban blight adverse to the maintenance and continuing development of the municipalities in the state, and is a public nuisance.

(b) A person commits an offense if that person maintains a public nuisance as determined under this section.

(c) A person who commits an offense under this section is, on conviction, subject to a fine not to exceed \$200. On conviction, the court shall order removal and abatement of the nuisance.

City or County Procedures for Abating Nuisance

Sec. 5.09. (a) A city, town, or county within this state may adopt procedures for the abatement and removal of a junked vehicle or a part of a junked vehicle as a public nuisance, from private property, public property, or public rights-of-way. The procedures must conform to the requirements of this section.

(b) For a nuisance on private property, the procedures must require not less than 10 days' notice stating the nature of the public nuisance on private property, that it must be removed and abated within 10 days, and that a request for a hearing must be made before expiration of the 10-day period. The notice must be mailed, by certified mail with a 5-day return requested, to the last known registered owner of the junked motor vehicle, any lien holder of record, and to the owner or occupant of the private premises on which the public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle, or, if the last known registered owner is physically located, the notice may be hand delivered. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than 10 days after the date of the return.

(c) For a nuisance on public property, the procedures must require not less than 10 days' notice, stating the nature of the public nuisance on public property or on a public right-of-way, that the nuisance must be removed and abated within 10 days, and that a request for a hearing must be made before expiration of the 10-day period. The notice must be mailed, by certified mail with a 5-day return requested, to the last known registered owner of the junked motor vehicle, any lien holder of record, and to the owner or occupant of the public premises or to the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle, or, if the last known registered owner is physically located, the notice may be hand delivered. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than 10 days after the date of the return.

(d) In addition, the procedures must prohibit a vehicle from being reconstructed or made operable after it has been removed.

(e) The procedures must require a public hearing before the removal of the vehicle or vehicle part as a public nuisance. The hearing shall be held before the governing body of the city, town, or county or any board, commission, or official of the city, town, or county as designated by the governing body, if a hearing is requested by the owner or occupant of the public or private premises or by the owner or occupant of the premises adjacent to the public right-of-way on which the vehicle is located, within 10 days after service of notice to abate the nuisance. At the hearing it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. A resolution or order requiring the removal of a vehicle or vehicle part must include a description of the vehicle and the correct identification number and license number of the vehicle if the information is available at the site.

(f) The procedures must require notice to be given to the State Department of Highways and Public Transportation not later than the fifth day after the date of removal. The notice must identify the vehicle or vehicle part. The department shall immediately cancel the certificate of title to the vehicle pursuant to the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes).

(g) The procedures may not apply to a vehicle or vehicle part that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property, a vehicle or vehicle part that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or an unlicensed, operable, or inoperable antique or special interest vehicle stored by a collector on the collector's property, if the vehicle and the outdoor storage area are maintained in a manner so that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

(h) The procedures must be administered by regularly salaried, full-time employees of the city, town, or county, except that the removal of a vehicle or vehicle part from property may be by any duly authorized person.

(i) Repealed by Acts 1985, 69th Leg., ch. 533, § 2, eff. Aug. 26, 1985.

Disposal of Junked Vehicles

Sec. 5.10. A junked vehicle or vehicle part may be disposed of by removal to a scrapyard, demolisher, or any suitable site operated by the city, town, or county for processing as scrap or salvage. The process of disposal must comply with the provisions of Section 5.09(d) of this article. A city, town, or county may operate a disposal site if its governing body determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of the vehicles or vehicle parts, or the city, town, or county may transfer the vehicles or vehicle parts to another disposal site if the disposal is only as scrap or salvage.

Authority to Enforce

Sec. 5.11. A person authorized by the city, town, or county to administer the procedures authorized by this article may enter private property for the purposes specified in the procedures to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle, and remove or cause the removal of a vehicle or vehicle part that constitutes a nuisance. An appropriate court in a city, town, or county that enacts procedures under this article may issue orders necessary to enforce the procedures.

Effect of Article on Other Statutes

Sec. 5.12. This article does not affect a law authorizing the immediate removal, as an obstruction to traffic, of a vehicle left on public property.

Acts 1981, 67th Leg., p. 2710, ch. 741, § 1, eff. Jan. 1, 1982. Sec. 2.01 amended by Acts 1983, 68th Leg., p. 5235, ch. 964, § 1, eff. Sept. 1, 1983; Sec. 4.04(b) amended by Acts 1983, 68th Leg., p. 369, ch. 81, § 10(b), eff. Sept. 1, 1983; Sec. 5.01 amended by Acts 1983, 68th Leg., p. 4056, ch. 635, § 1, eff. Aug. 29, 1983; Sec. 5.03 amended by Acts 1983, 68th Leg., p. 4058, ch. 635, § 2, eff. Aug. 29, 1983; Sec. 5.03(d) added by Acts 1983, 68th Leg., p. 5236, ch. 964, § 2, eff. Aug. 29, 1983; Sec. 5.05(a), (b), (e) amended and Sec. 5.05(f) deleted by Acts 1983, 68th Leg., p. 5236, ch. 964, § 3, eff. Aug. 29, 1983; Sec. 5.07(a) amended by Acts 1983, 68th Leg., p. 5238, ch. 964, § 4, eff. Aug. 29, 1983; Sec. 5.09(b), (c) amended by Acts 1983, 68th Leg., p. 5238, ch. 964, § 5, eff. Aug. 29, 1983; Sec. 1.02 amended by Acts 1985, 69th Leg., ch. 479, § 65, eff. Sept. 1, 1985; Sec. 2.01 added by Acts 1985, 69th Leg., ch. 434, § 1, eff. Sept. 1, 1985; Sec. 69th Leg., ch. 434, § 1, eff. Sept. 1, 1985; Sec. 2.02(b) amended by Acts 1985, 69th Leg., ch. 434, § 2, eff. Sept. 1, 1985; Sec. 2.02(d) amended by Acts 1985, 69th Leg., ch. 434, § 3, eff. Sept. 1, 1985; Sec. 2.03(a) amended by Acts 1985, 69th Leg., ch. 434, § 4, eff. Sept. 1, 1985; Sec. 2.04(a) amended by Acts 1985, 69th Leg., ch. 434, § 4, eff. Sept. 1, 1985; Sec. 2.08 added by Acts 1985, 69th Leg., ch. 197, § 1, eff. Aug. 26, 1985; Sec. 5.01(5) amended by Acts 1985, 69th Leg., ch. 533, § 1, eff. Aug. 26, 1985; Sec. 5.05(f) added by Acts 1985, 69th Leg., ch. 308, § 1, eff. Sept. 1, 1985; Sec. 2.01(5) added by Acts 1987, 70th Leg., ch. 305, § 6, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 348, § 1, eff. Sept. 1, 1987; Sec. 2.011 amended by Acts 1987, 70th Leg., ch. 305, § 7, eff. Sept. 1, 1987; Sec. 2.02(d) amended by Acts 1987, 70th Leg., ch. 305, § 8, eff. Sept. 1, 1987; Sec. 2.04(f), (g) amended by Acts 1987, 70th Leg., ch. 348, § 2, eff. Sept. 1, 1987; Sec. 2.04(g) amended by Acts 1987, 70th Leg., ch. 305, § 9, eff. Sept. 1, 1987; Sec. 2.07(b) amended by Acts 1987, 70th Leg., ch. 305, § 10, eff. Sept. 1, 1987; Sec. 2.08(c) amended by Acts 1987, 70th Leg., ch. 305, § 11, eff. Sept. 1, 1987; Sec. 2.09 added by Acts 1987, 70th Leg., ch. 680, § 4, eff. Sept. 1, 1987; Sec. 5.01(2) amended by Acts 1989, 71st Leg., ch. 972, § 1, eff. Aug. 28, 1989; Sec. 5.031 added by Acts 1989, 71st Leg., ch. 921, § 1, eff. Sept. 1, 1989; Sec. 5.04 amended by Acts 1989, 71st Leg., ch. 421, § 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 921, § 2, eff. Sept. 1, 1989; Sec. 5.05(b) amended by Acts 1989, 71st Leg., ch. 1039, § 2.50, eff. Sept. 1, 1989; Sec. 5.05(c) amended by Acts 1989, 71st Leg., ch. 100, § 1, eff. Sept. 1, 1989; Sec. 5.05(d) amended by Acts 1989, 71st Leg., ch. 921, § 3, eff. Sept. 1, 1989; Sec. 4.04 amended by Acts 1991, 72nd Leg., ch. 489, § 2, eff. Sept. 1, 1991; Sec. 4.05 amended by Acts 1991, 72nd Leg., ch. 489, § 3, eff. Sept. 1, 1991; Sec. 4.07 amended by Acts 1991, 72nd Leg., ch. 444, § 1, eff. Sept. 1, 1991; Sec. 4.03(h), (i) added by Acts 1993, 73rd Leg., ch. 738, § 1, eff. Aug. 30, 1993; Sec. 4.06(d) added by Acts 1993, 73rd Leg., ch. 837, § 1, eff. Aug. 30, 1993; Sec. 4.12 amended by Acts 1993, 73rd Leg., ch. 738, § 2, eff. Aug. 30, 1993; Sec. 4.13 added by Acts 1993, 73rd Leg., ch. 748, § 1, eff. Sept. 1, 1993; Sec. 5.031(d) amended by Acts 1993, 73rd Leg., ch. 562, § 1, eff. Sept. 1, 1993; Sec. 5.05(b) amended by Acts 1993, 73rd Leg., ch. 710, § 1, eff. Sept. 1, 1993.

Historical and Statutory Notes

Section 4 of the 1981 Act provides:

"This Act takes effect January 1, 1982, and applies only to offenses committed on or after that